

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

CHARLES D. BROWN, #1329505,)	
Petitioner,)	
)	
v.)	3:06-CV-0319-D
)	
LARRY STOKES,)	
Respondent.)	

**FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to the provisions of 28 U.S.C. § 636(b), and an Order of the Court in implementation thereof, this cause has been referred to the United States Magistrate Judge. The findings, conclusions and recommendation of the Magistrate Judge are as follows:

FINDINGS AND CONCLUSIONS:

Type Case: This is a petition for writ of mandamus submitted by a state prisoner pursuant to 28 U.S.C. § 2254.

Parties: Petitioner is currently confined at the Ramsey Unit of the Texas Department of Criminal Justice -- Correctional Institutions Division (TDCJ-CID) in Rosharon, Texas. Respondent is Larry Stokes. The Court did not issue process in this case, pending preliminary screening.

Findings and Conclusions: Although the petition for writ of mandamus reflects Cause No. 3:05cv2419-K in the caption, it was opened as a new civil action and assigned Cause No. 3:06cv0319-D. On February 24, 2006, the Court issued a notice of deficiency and order in No. 3:06cv0319-D, advising Petitioner that his petition for writ of mandamus did not comply with

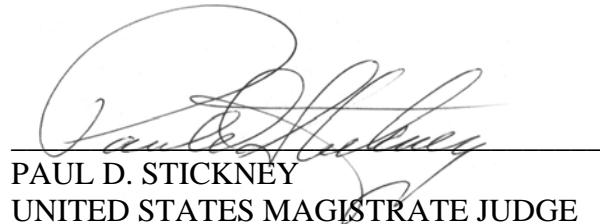
Rule 8(a), Federal Rules of Civil Procedure, that it did not contain a signature, and that it was submitted without the requisite filing fee or motion for leave to proceed *in forma pauperis*. In his response filed on March 20, 2006, Petitioner states that the pleadings filed in this case were intended for filing in No. 3:05cv2419-K, which was recently dismissed for lack of jurisdiction. While his response is difficult to understand, it appears that he is seeking to dismiss this action without prejudice so that he can return to state court to exhaust his state remedies. In that event, his request should be granted. See Fed. R. Civ. P. 41(a).

RECOMMENDATION:

For the foregoing reasons it is recommended that the instant petition for writ of mandamus be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a).

The Clerk will mail a copy of this recommendation to Petitioner.

Signed this 27th day March, 2006.



PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE

NOTICE

In the event that you wish to object to this recommendation, you are hereby notified that you must file your written objections within ten days after being served with a copy of this recommendation. Pursuant to Douglass v. United Servs. Auto Ass'n, 79 F.3d 1415 (5th Cir. 1996) (en banc), a party's failure to file written objections to these proposed findings of fact and conclusions of law within such ten-day period may bar a *de novo* determination by the district judge of any finding of fact or conclusion of law and shall bar such party, except upon grounds

of plain error, from attacking on appeal the unobjected to proposed findings of fact and conclusions of law accepted by the district court.